

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 92-81212

CHANDAR A. SNOW,

Defendant.

**OPINION AND ORDER CONSTRUING DEFENDANT'S MOTION PURSUANT TO
RULE 33 AS A SUCCESSIVE PETITION FOR HABEAS CORPUS RELIEF UNDER 28
U.S.C. § 2255 AND TRANSFERRING THE MOTION TO THE COURT OF APPEALS**

Following a jury trial in 1993, Defendant Chandar Snow was convicted of conspiracy to possess with intent to distribute cocaine base, in violation of 21 U.S.C. § 846 (Count 1), and knowingly and intentionally causing the killing of a person while engaged in a drug conspiracy, in violation of 21 U.S.C. §§ 846, 848(e)(1)(A)) (Count 2). (Dkt. # 33.) Snow was sentenced concurrently to 327 months' imprisonment for Count 1 and life imprisonment for Count 2. (*Id.*) He appealed on August 23, 1993, and the Sixth Circuit affirmed the conviction. *United States v. Snow*, 48 F.3d 198 (6th Cir. 1995). He filed a motion for a new trial, which the court denied on September 4, 1996. (Dkt. # 60.) Snow appealed, and the Sixth Circuit affirmed the denial of Snow's motion. *United States v. Snow*, 129 F.3d 1266 (6th Cir. Nov. 10, 1997) (unpublished table disposition).

Next, Snow filed a motion pursuant to 28 U.S.C. § 2255, and the court dismissed the motion on December 3, 1999. (Dkt. # 77.) Snow appealed, and the Sixth Circuit

declined to issue a certificate of appealability. (See Dkt. # 78.) On April 27, 2004, Snow filed a second motion under § 2255. The court transferred the motion to the Sixth Circuit (Dkt. # 91), and the Sixth Circuit dismissed the motion. (Dkt. # 94.) Snow filed another motion on January 30, 2008 which this court construed as a successive petition for habeas relief under § 2255 and transferred to the Sixth Circuit. (Dkt. # 98.) The Sixth Circuit dismissed the motion for lack of prosecution. (Dkt. # 99.) Thereafter, Snow filed motions on October 3, 2008, which the court construed as seeking reconsideration and denied. (Dkt. # 104.) Snow then filed a motion seeking reconsideration of the denial of his motion for reconsideration, a petition for redress of grievances, and a request for judicial notice. The court denied these motions, and the Sixth Circuit affirmed the denial. (Dkt. # 121.) On December 31, 2012, Snow filed another motion which the court construed as a successive habeas petition and transferred to the Sixth Circuit. (Dkt. # 133.) The Sixth Circuit dismissed the motion for want of prosecution. (Dkt. # 137.)

Now before the court is Snow's Motion Pursuant to the Fed. R. Crim. P. Rule 33 (Dkt. # 139), requesting the court to grant Snow a new trial. Because the motion attempts to attack Snow's conviction and sentence, it is construed as a habeas petition under § 2255. See *Gonzalez v. Crosby*, 545 U.S. 524, 531 (2005) (finding that a pleading that is in substance a successive habeas petition should be treated accordingly). Under § 2255, “[a] second or successive motion must be certified as provided in section 2244.” 28 U.S.C. § 2255(h). Section 2244 mandates that, “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the

district court to consider the application." 28 U.S.C. § 2244(b)(3)(A). Before the court may address the instant motion, Snow must obtain such an order. Accordingly,

IT IS ORDERED that Defendant's Motion Pursuant to the Fed. R. Crim. P. Rule 33 (Dkt. # 139) is CONSTRUED as a successive petition for habeas corpus relief under 28 U.S.C. § 2255 and TRANSFERRED to the United States Court of Appeals for the Sixth Circuit for a determination of whether certification should issue pursuant to 28 U.S.C. § 2244.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 23, 2014

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 23, 2014, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522